

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #7	CCRB Case #: 201508768	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/10/2015 4:50 AM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 4/10/2017	EO SOL 4/10/2017	
Date/Time CV Reported Thu, 10/15/2015 1:12 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/15/2015 1:12 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Craig Smith	00724	946617	075 PCT
2. POM David Grieco	18061	940216	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Damon Martin	04173	920558	INT CIS

Officer(s)	Allegation	Investigator Recommendation
A.POM Craig Smith	Abuse: PO Craig Smith entered and searched § 87(2)(b) in Brooklyn.	[REDACTED]
B.POM David Grieco	Discourtesy: PO David Grieco spoke discourteously to § 87(2)(b)	[REDACTED]

Case Summary

On October 10, 2015, at approximately 4:50 a.m., officers from the 75th Precinct executed a search warrant at § 87(2)(b) in Brooklyn (**Allegation A**). § 87(2)(b) the apartment's tenant, was home at the time, along with her nephew § 87(2)(b) her granddaughter § 87(2)(b) and § 87(2)(b)'s friend, § 87(2)(b). During the search of the apartment, PO David Grieco allegedly told § 87(2)(b) "Shut the fuck up," as well as, "You know where the fucking guns at." PO Grieco also allegedly said to § 87(2)(b) "Your aunt, she's going to get kicked out of the motherfucking apartment," as well as, "Don't make me go and get the motherfucking dogs" (**Allegation B**). § 87(2)(b) and § 87(2)(b) were both arrested for criminal use of drug paraphernalia as a result of this incident.

§ 87(2)(b) also complained that the officers stole money from her apartment, which was referred to IAB under CCRB Case #201508779. This case was reassigned from Investigator Craig Anderson to Investigator Frank Montgoris on November 9, 2015.

This case exceeded the 90-day benchmark because documentation regarding the incident, including Body Worn Camera (BWC) footage, which was later determined not to exist, took almost two months to gather.

Mediation, Civil, and Criminal Histories

This case was unsuitable for mediation because there were two arrests. According to the Office of Court Administration Records (OCA), § 87(2)(b) does not have a history of criminal convictions over the past ten years (Board Review 01). § 87(2)(b) has never been arrested in New York City and does not have a NYSID number. As a result, a search of OCA for § 87(2)(b)'s criminal history could not be done. As of January 11, 2016, neither § 87(2)(b) nor § 87(2)(b) had filed a Notice of Claim against the City of New York (Board Review 02).

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 03).
- This is § 87(2)(b)'s first CCRB complaint (Board Review 04).
- PO Craig Smith has been a member of the NYPD for seven years. PO Smith has been the subject of ten allegations stemming from seven cases. There have been no substantiated allegations against PO Smith § 87(2)(g).
- PO Grieco has been a member of the NYPD for nine years. PO Grieco has been the subject of 34 prior allegations stemming from 18 cases, which resulted in three substantiated allegations. Only two of the 34 allegations were discourtesy allegations. § 87(2)(g).

Findings and Recommendations

Explanation of Subject Officer Identification

- Given that PO Smith is listed as the investigating officer on the search warrant, **allegation A** has been pleaded against PO Smith (Board Review 05).
- § 87(2)(b) alleged that the officer who spoke discourteously to him was a 5'6" tall, muscular white male, who appeared to be in his late 30s or 40s (Board Review 06). PO Grieco, who, based on his pedigree sheet, matches the description provided by § 87(2)(b).

§ 87(2)(b) acknowledged being present at the scene in his CCRB interview (Board Reviews 07 and 08). In addition, PO Smith stated in his CCRB interview that, other than himself, PO Grieco and Sgt. Damon Martin were the only officers to enter the apartment after ESU's initial entry (Board Review 09). A search of CTS determined that Sgt. Martin is a black male and did not fit the description of the subject officer. Therefore, **allegation B** has been pleaded against PO Grieco.

Allegations Not Pleaded

- **Discourtesy:** A discourtesy allegation toward § 87(2)(b) is not being pleaded because § 87(2)(b) a witness to the incident who was present in the apartment during the entry and search, alleged during her phone statement that an unidentified officer told § 87(2)(b) "You fucking faking." § 87(2)(b) alleged that this same officer also said to § 87(2)(b) that she was not allowed to "go to the fucking bathroom" (Board Review 10). However, § 87(2)(b) did not allege any discourtesies on her own behalf during her sworn phone statement (Board Review 11). Therefore this allegation was not pleaded.

Allegation A – Abuse of Authority: PO Craig Smith entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that officers entered and searched § 87(2)(b) in Brooklyn. The investigation obtained a copy of Search Warrant § 87(2)(b), issued by the Criminal Court of the City of New York, which judicially ordered officers to enter the location and search for firearms and narcotics without first announcing their presence.

A search warrant issued by a New York City criminal court may be executed pursuant to its terms. Criminal Procedure Law, Section 690.50 (Board Review 13)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B – Discourtesy: PO David Grieco spoke discourteously to § 87(2)(b)

It is in dispute whether PO Grieco spoke discourteously to § 87(2)(b). § 87(2)(b) alleged that, while he was seated at the kitchen table, an officer, who the investigation identified as PO Grieco, stated to him, "Shut the fuck up." This same officer also told § 87(2)(b) "You know where the fucking guns at." Later on, he told § 87(2)(b) "Your aunt, she's gonna get kicked out of the motherfucking apartment," as well as, "Don't make me go and get the motherfucking dogs." § 87(2)(b) stated that, although § 87(2)(b) and § 87(2)(b) were in another room when these phrases were said to him, the officer was loud enough to the point where the women would have heard him (Board Review 06).

§ 87(2)(b) alleged during her phone statement that, while she was in the living room with § 87(2)(b) an officer, who was identified via investigation as PO Grieco, said, "If you don't tell us where the fucking guns are at, I'm going to tear this fucking place up." § 87(2)(b) did not allege any other discourteous statements toward § 87(2)(b) throughout the rest of the incident (Board Review 10). Both § 87(2)(b) and § 87(2)(b) did not allege that any discourtesies were used toward § 87(2)(b) throughout the incident (Board Reviews 11 and 14).

PO Grieco denied saying these phrases to § 87(2)(b) and denied hearing any other officer say any of these phrases to § 87(2)(b). He denied using any profanity toward § 87(2)(b).

throughout the incident (Board Review 08). PO Smith and Sgt. Martin both denied hearing PO Grieco or any other officer say any of these phrases to § 87(2)(b) and denied hearing any profanity at all throughout the course of the incident (Board Reviews 09 and 15).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Squad: 7

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date